REMARKS

Claims 1-6, 8-11 and 13-40 are pending and stand rejected. Claim 7 is canceled. Claim 12 was previously canceled. Claims 1, 3, 9, 10, 19, and 31-33 have been amended. Applicant respectfully requests reconsideration and allowance of the claims, as amended, in view of these Remarks. Applicant submits that this Amendment places the claims in condition for allowance, or in better condition for appeal.

Response to Claim Objections

Claims 1, 3, 9, 10, 19, and 31-33 have been amended to replace "operable" with "configured". Claim 7 has been canceled to overcome the objection under MPEP 706.03(k). Claim 11 has been amended to clarify its dependence upon claim 9.

Rejections Under 37 CFR §112

Claims 1-11 and 13-40 was objected to under section 112 as failing to comply with the written description requirement. Applicant traverses this rejection and requests reconsideration. Applicant notes that the Examiner failed to point out even one term or any reasoning which is objectionable on this grounds.

The Examiner has failed to meet the initial burden of the Office to set forth a ***prima facie*** case supporting a rejection under Section 112. More specifically, the Office carries the initial burden of presenting some evidence or reasons why persons skilled in the art would not recognize in the specification disclosure a description of the invention defined by the claims. *Ex Parte* Sorenson, 3 USPQ2d 1462, 1463 (BPAI 1987)(citing *In re* Wertheim, 541 F.2d 257, 191 USPQ 90 (CCPA 1976). *See also Ex Parte Parks*, 30 USPQ2d 1234, 1236 (BPAI 1994). Here, the Examiner has presented <u>no evidence or argument</u> in support of the rejection under Section 112. <u>Therefore, of course, the Applicant has no basis for presenting a response to rebut any specific deficiency identified by the Examiner.</u> Accordingly, the Examiner's general rejection under section 112 is clearly impermissible and should be withdrawn. Because the Examiner has set forth no evidence or reasoning to suggest why a person skilled in the art would not recognize in the specification a description of the invention, or the level of skill in the art at the time of the

invention, the Office clearly has failed to establish a *prima facie* rejection under Section 112. Accordingly, Applicant respectfully requests that the rejection under section 112 be withdrawn.

Rejections Under 37 CFR §102

Claims 1, 2, 5, 6, 8, 9, 11, 13-15, 19, 32 and 33 were rejected under §102(e) as being unpatentable over Morrison. Applicants traverse this rejection and request reconsideration of these claims as herein amended.

Morrison discloses an optical ring network configuration. Networks and systems of the disclosure can be used for perimeter monitoring [Morrison: 0032]. At one or more nodes of the network can be located "smart" cameras including a microprocessor with instructions for controlling the node and/or processing node device data in the absence of an externally provided control and/or processing [Morrison: 0032]. Morrison states: "The data from a camera(s) (or other such sensor 1006a-g) may be processed at the camera to eliminate communications on the fiber optic network/ring, such that events may be communicated on the ring, but otherwise, data may be stored locally at the camera or another location until requested from a device. [Morrison: 40]. Morrison discusses an example wherein "For example, if the sensor is associated with a switch that can indicate that a door opened, an authorized user may provide a personal identification number (PIN), access code/card, biometric data (e.g., facial recognition module associated with a camera), or other data acceptable to enable, disable, and/or otherwise affect the switch sensor 1006a-g such that, for example, an alarm may not be provided as otherwise may be the case, data may not be collected and/or transmitted as may otherwise be the case, and/or the one or more of the sensors 1006a-g may not be "armed," etc. [Morrsion: 0052]. A reference to this passage is repeated in paragraph [0053]: "In one embodiment, a system for protecting a remote area such as an aircraft cabin can be remotely armed and disarmed through commands and/or passwords that can be used to authenticate the command, and/or can be locally armed and/or disarmed based on the aforementioned PIN, access card/code, biometric data, and/or other data."

a. Morrison fails to disclose, teach or suggest the following elements specified in claim 1:

> "the at least one camera having a network protocol stack for transmitting the at least one set of facial image data and the at least one set of compressed image data to the IP network."

(i) First, Morrison clearly fails to disclose, teach or suggest this subject matter. Morrison's noticeable omission of the above subject matter clearly demonstrates that Morrison does not disclose, teach or suggest all of the subject matter specified in claim 1. Accordingly, claim 1 is allowable.

(ii) Second, in the alternative, Applicant respectfully submits that the Examiner has failed to set forth a *prima facie* case for lack of novelty under section 102, because the cited reference, Morrison, fails to disclose or teach this subject matter specified in claim 1:

> "transmitting the at least one set of facial image data and the at least one set of compressed image data to the IP network."

Applicant notes that none of the references cited by the Examiner discloses or teaches this subject matter. Because this subject matter is not shown by any cited reference, the Office has failed to establish a prima facie case under section 102, and Applicant has no duty to rebut the Examiner on this issue.

b. Additionally, Morrison also fails to disclose, teach or suggest the following elements set forth in claim 1 as herein amended:

> "the at least one camera having at least one processor … the at least one processor being configured for executing with the digital format image data at least one facial recognition algorithm, execution of the at least one facial recognition algorithm producing at least one set of facial image data".

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(i). First, Applicant respectfully submits that the Examiner inaccurately characterizes the disclosure of Morrison, particularly at paragraphs [0052], [0055], [0074] and [0077], by suggesting or stating that Morrison discloses a camera including a processor which executes at least one facial recognition algorithm to produce at least one set of facial image data which is transmitted from the camera to the IP network. Morrison clearly does not disclose, teach, or suggest that at least one facial recognition algorithm is executed in a camera to provide at least one set of facial image data. The overall disclosure of Morrison is not directed to facial recognition and, apart from the passing reference in paragraph [0052] and a corresponding reference to the same subject in paragraph [0053], facial recognition is not otherwise described. The Examiner is seizing Morrison's passing reference "to a facial recognition module associated with a camera", and twisting it out of context, to arrive at the subject matter specified in claim 1. This is impermissible. It is well established that the Office may not seize upon language of a reference, take it out of context, and apply the language out of context to reject the subject matter of a claim. The teachings of a reference must be reviewed from the perspective of one of ordinary skill in the art. Accordingly, claim 1 is allowable.

(ii). Second, in the alternative, Applicant asserts that the extremely brief disclosure of Morrison in the cited paragraphs regarding "a facial recognition module associated with a camera" is not an enabling disclosure of the subject matter cited by the Examiner, and thus it does not enable one skilled in the art to practice the subject matter specified in claim 1. Therefore, claim 1 is allowable.

(iii). Third, Applicant respectfully submits that the extremely brief disclosure of Morrison simply restates subject matter which is well known in the prior art, and is not novel. Accordingly, claim 1 is allowable.

(iv.) Fourth, in the alternative, Applicant submits that the disclosure of Morrison in the cited paragraphs regarding "a facial recognition module associated with a camera" is indefinite, i.e., it

is not possible for one skilled in the art to ascertain subject matter of definite construction and function. Accordingly, claim 1 is allowable.

Because claim 1 is allowable, claims 2-18, which are dependent upon claim 1, are allowable for the same reasons set forth herein. Claims 2-18 are also allowable because of the additional subject matter specified therein.

Independent claims 19 and 32 include limitations similar to claim 1 and are allowable for the same reasons set forth above regarding claim 1. Claims 20-31 and 33-40 are dependent upon claims 19 and 32, respectively, and are allowable for the same reasons. Claims 20-31 and 33-40 are also allowable because of the additional subject matter specified therein.

For example, claim 2 specifies additional allowable subject matter:

      "a server in communication with the IP network, the server being remote from the camera, the server receiving the at least one set of facial image data."

Neither Morrison nor any other reference discloses or teaches the subject matter of claim 2. Applicant notes that claim 2 specifies "the server receiving the at least one set of facial image data." The referenced "the at least one set of facial image data" is provided to the IP network by the at least one camera specified in claim 1 and quoted here: "the at least one camera having a network protocol stack for transmitting the at least one set of facial image data and the at least one set of compressed image data to the IP network." Accordingly claim 2, and all claims dependent upon claim 2, are allowable.

For example, claim 6 also specifies additional allowable subject matter:

      "a server in communication with the IP network, the server being remote from the plurality of cameras, the server receiving from each camera respective of the at least one set of facial image data."

Neither Morrison nor any other reference discloses or teaches the subject matter of claim 6. Applicant notes that claim 6 specifies "the server receiving from each camera respective of the at least one set of facial image data." The cited references fail to disclose, teach or suggest this subject matter. Accordingly claim 6 is allowable.

For example, claim 10 specifies additional allowable subject matter:

"the remote station receiving the at least one set of facial image data".

Clearly, neither Morrison nor any other reference teaches the subject matter of claim 10. Applicant notes that claim 10 specifies "the remote station receiving the at least one set of facial image data." The cited references fail to disclose, teach or suggest this subject matter. Accordingly claim 10 is allowable.

Rejections Under 37 CFR §103

Claims 3, 4, 7, 10, 21-24, 31, 35 and 36 Rejected Under §103(a) Over Morrison (US 2004/0052450) in combination with Geng (US 7,221,809)

Claims 3, 4, 7, 10, 21-24, 31, 35 and 36 were rejected under §103(a) as being unpatentable over Morrison in combination with Geng. Applicant respectfully traverses this rejection and requests reconsideration of all claims as amended.

First, Applicant respectfully submits that Geng does not cure the deficiencies of Morrison, which were previously discussed above in detail with reference to the rejections under §102, specifically in relation to claim 1 as amended. Referring to the discussion above and specifically to claim 1, Morrison fails to disclose, teach or suggest both of the following (letters (a) and (b) being added here for clarity):

(a). "the at least one camera having a network protocol stack for transmitting the at least one set of facial image data and the at least one set of compressed image data to the IP network."

(b). "the at least one camera having at least one processor … the at least one processor being configured for executing with the digital format image data at least one facial recognition algorithm, execution of the at least one facial recognition algorithm producing at least one set of facial image data".

Applicant notes that Geng clearly fails to disclose, teach or suggest the elements specified above in (a). Similarly, Geng clearly fails to disclose, teach or suggest the elements specified above in (b). In summary, Geng fails to disclose, teach or suggest "at least one camera having at least one processor … the at least one processor being configured for executing with the digital format image data at least one facial recognition algorithm, execution of the at least one facial recognition algorithm producing at least one set of facial image data … the at least one camera having a network protocol stack for transmitting the at least one set of facial image data and the at least one set of compressed image data to the IP network" and for this reason fails to cure the deficiencies of Morrison. Because Geng fails to cure both deficiencies (a) and (b), set forth above, in the teachings of Morrison. Accordingly, claim 1 and dependent claims 2-18 are allowable over the combination of Morrison and Geng.

It is to be understood that independent claim 19, and claims 20-31 dependent thereon, are allowable for the same reasons. Likewise, claim 32 and dependent claims 33-37 are allowable for similar reasons.

Claims 16-18 Rejected Under §103(a) Over Morrison (US 2004/0052450) in combination with Brooks et al. (US 2003/0210139)

Claims 16-18 were rejected under §103(a) as being unpatentable over Morrison in combination with Brooks. Applicant respectfully traverses this rejection and requests reconsideration of all

claims as amended.

Applicant respectfully submits that Brooks does not cure the deficiencies of Morrison, which were previously discussed above in detail with reference to the rejections under §102, specifically in relation to claim 1 as amended. Claims 16-18 are dependent upon claim 1, and are allowable for the reasons discussed immediately above. Claims 16-18 fail to disclose, teach or suggest "at least one camera having at least one processor … the at least one processor being configured for executing with the digital format image data at least one facial recognition algorithm, execution of the at least one facial recognition algorithm producing at least one set of facial image data … the at least one camera having a network protocol stack for transmitting the at least one set of facial image data and the at least one set of compressed image data to the IP network"

Claims 20 and 34 Rejected Under §103(a) Over Morrison (US 2004/0052450) in combination with Ely (US 5,982,418)

Claims 20 and 34 were rejected under §103(a) as being unpatentable over Morrison in combination with Ely. Applicant respectfully traverses this rejection and requests reconsideration of all claims as amended.

Applicant respectfully submits that Ely does not cure the deficiencies of Morrison regarding independent claims 19 and 32. The deficiencies of Morrison were previously discussed above in detail with reference to claim 1. Similar deficiencies reside in independent claims 19 and 32, and the same arguments set forth above apply to independent claims 19 and 32. Morrison fails to disclose, teach or suggest the elements of claims 19 and 32.

With respect to claim 19, Morrison fails to teach:
"the surveillance camera comprising … at least one processor … at least one facial recognition algorithm being executable with the digital format image data by the at least one processor, execution of the at least one facial recognition algorithm producing at least one set of

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facial image data; … and a network stack in communication with the at least one processor, the network stack being configured to transmit the at least one set of facial image data and the at least one set of compressed image data to the internet protocol network."

Clearly Ely does not cure these deficiencies of Morrison. Accordingly, claim 20 is allowable as being dependent upon claim 19.

With respect to claim 32, Morrison fails to disclose, teach or suggest:

"the surveillance camera comprising … at least one processor in communication with an image collection device to receive the digital format image data … at least one facial recognition algorithm embodied in suitable media, the at least one facial recognition algorithm being executable with the digital format image data by the at least one processor, execution of the at least one facial recognition algorithm producing at least one set of facial image data; and a network stack in communication with the at least one processor, the network stack being configured to transmit the at least one set of facial image data to the internet protocol network."

Clearly Ely does not cure these deficiencies of Morrison. Accordingly, claim 34 is allowable as being dependent upon allowable claim 32.

Second, in the alternative, the Examiner incorrectly states that Ely (at col. 3, lines 55-67) discloses a camera which comprises the at least one facial recognition algorithm. Ely simply and clearly misstates Ely, because Ely very clearly does not disclose a camera including at least one facial recognition algorithm. Absent this obvious misstatement, Ely provides no reference to the subject and no motivation for modification of Morrison. Therefore, Applicant respectfully traverses this rejection and requests the Office to withdraw these unfounded rejections of claims 20 and 34.

Claims 25, 26, 37 and 38 Rejected Under §103(a) Over Morrison (US 2004/0052450) in combination with Peters et al (US 2002/0051061)

Claims 25, 26, 37 and 38 were rejected under §103(a) as being unpatentable over Morrison in combination with Peters. Applicant respectfully traverses this rejection and requests reconsideration of all claims as amended.

Applicant respectfully submits that Peters clearly does not cure the deficiencies of Morrison regarding independent claims 19 and 32. These deficiencies of Morrison were previously discussed immediately above, in great detail. Morrison fails to disclose, teach or suggest the elements of independent claims 19 and 32. Peters fails to cure these deficiencies. Accordingly, respective dependent claims 25-26 and 37-38 are allowable as being dependent upon allowable independent claims.

Claims 27 and 39 Rejected Under §103(a) Over Morrison (US 2004/0052450) in combination with Willis et al (US 6,584,082)

Claims 27 and 39 were rejected under §103(a) as being unpatentable over Morrison in combination with Willis. Applicant respectfully traverses this rejection and requests reconsideration of all claims as amended.

Applicant respectfully submits that Willis clearly does not cure the deficiencies of Morrison regarding independent claims 19 and 32. These deficiencies of Morrison were previously discussed immediately above, in great detail. Morrison clearly fails to disclose, teach or suggest the elements of independent claims 19 and 32. Peters fails to cure these deficiencies. Accordingly, respective dependent claims 27 and 39 are allowable as being dependent upon allowable independent claims.

Applicant also respectfully suggests that Willis disclosure of subject matter of transmitting data over satellites is clearly irrelevant to the subject matter of the present disclosure, which relates to an internet protocol network. Presumably, the satellite does not operate according to an internet protocol network, and is rendered irrelevant by this omission.

Claims 28-30 and 40 Rejected Under §103(a) Over Morrison (US 2004/0052450) in combination with Peters et al and Willis et al

Applicant suggests that the combination is impermissible, because there is no motivation to combine the three references as suggested by the Examiner. In the alternative, the constructions specified in claims 28-30 and 40 would not be achieved by the combination, and it is uncertain what form such a combination would take. The Office is not permitted to use applicant's disclosure as a roadmap for hindsight reconstruction of the claims.

In the alternative, Applicant respectfully submits that Willis and Peters, even taken together, clearly do not cure the deficiencies of Morrison regarding independent claims 19 and 32. These deficiencies of Morrison were previously discussed immediately above, in detail. Morrison clearly fails to disclose, teach or suggest the elements of independent claims 19 and 32. Peters and Willis fail to cure these deficiencies. Accordingly, respective dependent claims 28-30 and 40 are allowable as being dependent upon allowable independent claims.

Conclusion

In view of the foregoing, Applicant respectfully requests consideration of claims 1-6, 8-11 and 13-40, and submits that each includes allowable subject matter. Applicant respectfully requests issuance of a Notice of Allowance for all claims. The undersigned is available at (512) 499-8900 to discuss this application at the convenience of the Examiner.

Respectfully submitted,

/Jeffrey D. Hunt/

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